



Town of Reading
16 Lowell Street
Reading, MA 01867-2683

JEAN DELIOS
Community Services Director /
Town Planner
Phone: (781) 942-6612
Fax: (781) 942-9071
jdelios@ci.reading.ma.us

M E M O R A N D U M

To: Robert W. LeLacheur, Jr., Town Manager
From: Jean Delios, Community Services Director/Town Planner
Date: July 23, 2013
Re: Affordable Housing – Next Steps

The Town of Reading has been applauded for proactive planning related to affordable housing. A 40B proposal for 885 Main Street would have crammed 20 units in a residential neighborhood comprised of single family homes. Mass Housing denied this 40B because of Reading's good faith efforts to increase its affordable housing stock, including, adopting two Smart Growth Zoning Districts which allowed housing by right, particularly in the downtown.

The Town also has a recently updated and approved Housing Production Plan (HPP) that outlines next steps to be taken in creating affordable housing. The HPP identified the Affordable Housing Trust Fund (AHTF) as a resource for both preserving existing affordable housing units as well as for creating new housing units. On April 9, 2013 The Board of Selectmen discussed Reading's Affordable Housing Trust Fund (AHTF) with our consultant Robert P. Mitchell FAICP.

We would like to pursue next steps for restructuring the AHTF and for using AHTF funds to hire a regional housing services coordinator. A grant from the Metropolitan Area Planning Council (MAPC) has allowed us to study how Reading could benefit from a regional housing services coordinator. Reading has been asked to lead the regionalization effort with a handful of area communities who have also indicated a strong interest in pursuing this.

Overview - Affordable Housing Trust Fund (AHTF)

Reading's AHTF was created by a Special Act prior to more recent changes by the State that have simplified how trusts operate. For example, the requirement that the Board of Selectmen submit an allocation plan to Town Meeting each year for their approval indicating how funds from the Trust will be expended (and how they have been over the past year) could be streamlined.

Purpose – Reading AHTF

Housing trust funds are a resource for communities to use to produce affordable housing units as well as to support the proactive preservation of affordable units. The approved Reading Housing Production Plan (HPP) dated November 1, 2012, recommends restructuring the AHTF to allow greater flexibility in addressing housing needs. The Mitchell report echoes that sentiment.

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Recommendation No. 1: Adopt a new AHTF under MGL c. 44 § 55C

Mr. Mitchell recommends that a new AHTF adopted under MGL c. 44 § 55C would best serve the Town of Reading. This change provides a broad array of powers that the town can chose from while specifically identifying procedures that should be adhered to.

Recommendation No. 2: Hire a Regional Housing Services Coordinator

Hiring a shared housing coordinator would more efficiently staff the need to pursue affordable housing goals outlined in Reading's Housing Production Plan (HPP) and to monitor existing affordable housing units so they are preserved. This is especially important to ensure that we do not lose affordable housing units when they come up for sale since there is a limited timeframe to find another qualified buyer after which the unit is reverted to market rate. We have talked about establishing a ready buyer list with the help of the shared staff person to prevent any loss of affordable units.

By taking these steps Reading will be well positioned to continue to make progress on affordable housing goals.

Attachments – Mitchell Report on AHTF 2/4/13
MAPC DLTA Report – Regional Housing Services Coordinator

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AFFORDABLE HOUSING TRUST FUNDS

A Report to the Town of Reading MA

Robert P. Mitchell FAICP

2/4/2013

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Robert P. Mitchell FAICP
151 Tremont Street Suite 23A
Boston MA 02111
MitchellFAICP@gmail.com

February 4, 2013

Mr. Peter I. Heckenbleikner, Town Manager
Ms Jean Delios, Community Services Director/Town Planner
Town of Reading
16 Lowell Street
Reading MA 01867

Dear Mr. Heckenbleikner & Ms Delios:

Enclosed is a Report to the Town of Reading on Affordable Housing Trust Funds. This Report examines the current Reading Affordable Housing Trust and the special act that created the Trust. The Report provides information on the state legislation passed subsequent to the Reading special act as well as the potential roles of trusts and their funding sources.

The Report also presents a number of questions that should be considered as Reading decides how best to organize its trust as well as some options for that organization. In addition it makes a number of recommendations related to Reading's trust and its structure and activities.

Finally the Appendices include the state statute on affordable housing trusts and some examples of town meeting warrant language as well as a Declaration of Trust from communities that have adopted trusts under that state statute.

If you have any questions or would like further elaboration of any part of this report, I would be pleased to provide additional information. I am available to meet with you at your convenience for any further discussion of the Report.

Sincerely

Robert P. Mitchell FAICP

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A Report on Affordable Housing Trust Funds

Presented to the Town of Reading MA

**By
Robert P. Mitchell FAICP**

February 4, 2013

Introduction

This is a Report on affordable housing trust funds (AHTF). It reviews the current situation of the Reading AHTF and issues related to its structure and activities. The report presents a number of questions that Reading should consider as it analyzes what actions to take relative to the Trust. It also presents a series of options for consideration by the town in deciding how to move forward with a Trust.

Subsequent to Reading adopting a special act to create the Trust in 2001, the state adopted legislation (MGL c. 44 § 55C) that allows for the creation of trusts by all cities and towns. That legislation gave broad powers and directions to local trusts adopted under this section of state law. As a result many communities, including communities with previous special acts, have adopted new trusts.

The Report compares the existing Reading trust to the provisions of the state legislation.

The Report also presents a series of options for Reading's consideration related to the future of the Trust's organization and actions.

Information on possible revenue sources and potential uses of trust funds is offered.

Based on the information provided, a number of recommendations are made for Reading's consideration.

The Appendices include the language from MGL c. 44 § 55C as well as examples of town meeting warrant articles and declaration of trust documents from communities that adopted an AHTF under that chapter of state law.

Background

Housing trust funds are established to receive funding without reliance on annual budget allocations in order to support the proactive preservation and production of affordable housing. Likewise trust funds can provide resources to monitor the future compliance of affordable housing over a restricted period of affordability.

In 2001 the Reading Town Meeting passed a warrant article which authorized the Selectmen to petition the Massachusetts General Court to establish an Affordable Housing Trust Fund for creation and preservation of affordable housing. The State legislature approved the special legislation. The Board of Selectmen act as the Trustees of the Trust.

In 2005 the Governor signed into law M.G.L. Chapter 44 Section 55C enabling cities and towns to create a Municipal Affordable Housing Trust Fund without a special act of the legislature. Since then more than 90 communities have ratified by local vote the creation of an AHTF.

The enabling legislation under M.G.L. Chapter 44, Section 55C allows communities to establish Trusts that provide a comprehensive capacity to preserve, create, and monitor affordable housing. Cities and towns that formed Trusts of their own design prior to this legislation have encountered complications and limits absent under the broader abilities in the state statute. Such complications are in fact the reason the legislature passed its new law.

Reading Housing Trust Issues

The following list outlines some issues that have been identified related to the Affordable Housing Trust Fund (AHTF) operating in Reading:

- The current AHTF requires that the Trust (Board of Selectmen) submit an allocation plan to town meeting each year. That allocation plan must indicate how funds from the Trust will be expended over the next year and how the funds were actually expended over the past year.
- Town meeting must vote to approve the allocation plan. The plan can only be amended by town meeting. The requirement that town meeting must approve expenditures restricts the ability of the Trust to act quickly in a situation where such action could result in the preservation and/or creation of affordable housing.
- The AHTF requires a majority vote of the full combined membership of both the Board of Selectmen and the Housing Authority for any expenditure. Under MGL Chapter 44 §55C, only a majority vote of the AHTF Trustees is required for expenditures, a less cumbersome process.
- The current Trust is not in conformity with state statute and does not provide both the broad powers of the statute and the explicit actions that the Trust may take which are also listed in the statute. This situation may present complications for the use of the Reading AHTF in certain circumstances.
- The current Trust has no provisions for identifying who the trustees are, how they are appointed, the terms of office or similar requirements.

Questions for Consideration

In the process of analyzing the potential options for Reading to consider, there some questions that the answers to would assist the town in deciding its course of action. Questions to ponder include:

- Is any trust, or the currently structured Trust, an effective tool for addressing affordable housing issues? Should there be a Reading trust?

- If a trust should be a part of Reading's actions regarding affordable housing, is the current special act structure outdated? Should Reading adopt a new trust under MGL c.44 §55C to provide more flexibility as well as additional powers and an expanded legal framework?
- What type of trust best suits Reading? a) a relatively passive one that awaits opportunities for funding and projects to aid; b) a funding body that seeks both revenues and identifies specific funding programs for which it solicits applications/proposals; c) an active initiator of actions to identify and solicit funding sources as well as one that initiates projects and proposals; d) a trust that concentrates only on assisting the production and preservation of affordable units, rather than on non-capital oriented programs.
- Prior to adopting specific guidelines and applications forms for use of trust money, the town must decide from a policy perspective what the specific uses are for which someone could request money. What are the priorities of the town in this matter?
- Without some regular or semi-regular revenue sources, it would be difficult to have any long term programs. However, would Reading consider some short term programs, such as a 2 -3 year availability of funds for home buying assistance, as an example?
- What staffing resources can be used to assist a trust in accomplishing its mission? How should the "administrative money" be best used for Trust purposes?
- Does the potential creation of a regional housing resource collaborator, currently being studied by Reading and surrounding communities, shape the discussion of what type of trust Reading should have?
- With Reading about to adopt a Housing Production Plan, what specific tasks, if any, should the trust have responsibility for in carrying out the strategies identified in that Plan?
- Given all of the provisions of MGL c. 44 §55C and the fact that the existing Reading special act trust does not include most of those provisions, would it be prudent to have a legal review of the Reading structure?

AHTF Options

There are numerous options for how Reading could proceed in deciding what, if any, changes should be made to the current structure and activity of the AHTF. Possible options include:

- Status quo: Keep the existing special act structure and activities. Await opportunities to either receive funding from unknown sources or to use the existing assets in support of specific requests for project aid. Continue to file a generic allocation plan each year with town meeting
- Status quo modified: Retain the existing special act structure but develop a detailed plan of action to both actively seek funding sources and to identify what specific purposes for which the trust funds could be used. Actively recruit organizations, developers etc.,

depending on the actions identified, to apply in a defined application process for the money that will be offered in a particular year.

- Rescind the Reading Trust: Decide that this mechanism to support affordable housing in Reading is not the most effective tool to use. Request that town meeting rescind the Trust. The funds currently assigned to the Trust would have to be allocated in a manner that supports the original purposes of those funds.
- Adopt MGL C. 44 §55C: Request that Town Meeting adopt a new Trust structure and organization based on the provisions of this section of state law. Use this process to identify the specific purposes for this new Reading AHTF, the responsibilities it would be assigned and the organizational structure, including trustees and staff support, of the new Trust. The town would file a Declaration of Trust with the Registry of Deeds as required by the legislation. At a minimum this would preclude the need to submit an allocation plan to town meeting every year.

Recommendations

Based on the information collected and analyzed, discussions with Reading staff, interviews with officials from other towns that have AHTFs and literature review, the following recommendations are made for the town's consideration:

- The town should adopt a new AHTF under MGL c. 44 § 55C. A new Trust under this legislation addresses some of the on-going issues that Reading has identified with its existing special act. It also provides a broad array of powers that the town can choose from while specifically identifying procedures that should be adhered to by the trustees. The required Declaration of Trust would ensure that Reading's structure had specific information as to who the trustees are, what powers they have, their terms of office, how they are appointed, how they operate etc. (most of this information is not currently included in Reading's special act.)
- The town should identify specifically what the role of the Trust is to be going forward. How active should it be? What specific tasks should it take on? A one to five year work plan/plan of action should be developed.
- The town should consider the results of the on-going study for a regional housing coordinator. If that position is created, then Reading should decide how best to use that resource to assist the Trustees in identifying their work plan as well as implementing recommendations from that work plan.
- The town should identify where it wants to focus trust resources – on project related proposals or for other activities, such as home buyer assistance or housing rehabilitation, for example. Given the lack of regular revenue sources, it may be practical to retain the assets for the opportunity to preserve and/or create new affordable units as being the most effective use of those assets.
- Given the limited resources in the Trust, the town should actively seek out partners with which to combine forces in the preservation and/or production of units, or the establishment of affordable housing restrictions on units where that opportunity arises.

- The new Housing Production Plan should be used to inform the Trust in developing a work plan and prioritizing actions to be taken by the Trust.

MGL c. 44 § 55C
Municipal Affordable Housing Trust Fund Act

In 2005, the Legislature adopted and the Governor Patrick signed, the "Municipal Housing Trust Fund" act which provided that cities and towns in the Commonwealth could adopt local affordable housing trusts. Prior to that date, a number of communities, including Reading, had requested and received approval of a special act from the State legislature to allow the creation of local affordable housing trusts.

Some important provisions of the Act include:

- It allows communities to collect funds for housing purposes
- It allows those funds to be segregated from the general budget into an affordable housing trust fund
- It allows communities to use those funds without going back to town meeting for approval
- It enables communities to own and manage real estate, not just receive and disburse funds

This Act simplified the process of establishing such trust funds and provides guidelines on what local trusts can do. It contains some minimum requirements which must be satisfied. However, it does allow towns to vary some of its provisions. Those provisions include:

- Trustees: The Act requires a minimum of five (5) trustees. The town has the option to increase the number of trustees. The town can also decide what the quorum should be (majority of the membership; majority of those present at a meeting etc.)
- Composition: The Act states that the trustees shall be appointed and confirmed by the Board of Selectmen and that one of the trustees must be a member of the Board of selectmen. While some towns do not spell out who should be on the trustees, other towns have designated seats for additional Board of Selectmen, planning board members, housing authority members or other designated groups and/or at-large seats.
- Powers: The powers in the Act are quite broad. Those powers can be modified or limited. Some communities adopt the powers of the Act without changes while others have imposed limits on the amount of money borrowed, or the selling of real estate without the approval of the Board of Selectmen and/or town meeting. Other towns have required a super majority vote (2/3) of the trustees for certain actions (such as sale, lease, or purchase of property).

If a town adopts the provisions of MGL c. 44§ 55C than it must also adopt a Declaration of Trust that includes the purposes of the trust; appointment, powers, meetings and tenure of the

trustees; the acts of the trustees; liability; amendments; accounts; duration of the trust; trust certificates; and other necessary elements of the bylaws for the trust.

This Declaration of Trust must be recorded at the Registry of Deeds.

**Comparison
Reading AHTF Special Act & MGL c. 44 § 55C**

Issue	Reading AHTF	MGL c. 44 §55C
Term of office	No reference	2 years
Annual report to Town Meeting	Required	No requirement
Annual allocation plan approved by town meeting	Required	No requirement
Expenditures	Requires majority vote of full combined membership of Board of Selectmen & Housing Authority	Expenditures made by AHTF board of trustees unless modified by town
Annual audit	No reference	Required
Membership	Not specified	Minimum of 5 members, appointed & confirmed by Bd. of S. One member must be from Bd. of S.
Town Manager as ex-officio or can appoint designee	Not allowed	Allowed
Powers	Limited to 4 powers specified in the special act	Broad powers (16 powers listed)

**Trust Powers & Use of Funds
(Under MGL c. 44 §55C)**

One of the reasons for the Legislature to adopt, and the Governor to sign, this legislation was to allow for flexibility as to how communities could use their revenues to further affordable housing goals. In addition to the powers listed below, a community may grant the trustees additional powers through the Declaration of Trust. The Act allows communities to take actions such as the following:

- To accept and receive real property, personal property or money by gift, grant, contribution, devise or transfer
- To purchase and retain real or personal property
- To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract and to make such contracts
- To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases etc. for the purposes of the trust
- To employ advisors and agents

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- To pay compensation and expenses to advisors and agents
- To apportion receipts and charges between incomes and principal, to amortize premiums and to establish sinking funds for such purposes and to create reserves
- To participate in any reorganization, recapitalization, merger or similar transactions; to consent to any contract, lease, mortgage purchase or sale of property
- To borrow money
- To defend, release, settle or otherwise adjust claims against the trust
- To manage and improve real property
- To extend the time for payment of any obligation of the trust

Revenues & Expenditure of Funds - It is important to note that moneys paid to the trust shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. Revenues paid into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year remain trust property.

Funding Sources

Most, but not all, communities that have adopted trust funds have some type of dedicated revenue source(s) to carry out the purposes of the trust. However, a variety of both dedicated and one-time revenue sources have been used throughout the state. Examples of these sources include:

- Community Preservation Act – This is the most consistent source of dedicated funds used for housing trust funds. The trustees in those communities that have adopted CPA often make an annual request for some amount of those funds.
- Inclusionary Zoning – Municipalities that adopt inclusionary zoning often allow for the payment of cash in lieu of construction of affordable units. Those cash payments can be designated by the bylaw for payment into the affordable housing trust. In addition a few communities also allow for the donation of land to the trust in lieu of construction.
- Town allocation: In a number of cities and towns, there has been an allocation of funds from the general budget to the AHTF
- Negotiated payments – Communities have negotiated with developers of both residential and commercial developments for community benefit contributions. In some instances those contributions have been cash payments to the trust. Depending on the circumstances, it could also be the case that such donations consisted of land and/or existing dwelling units.
- 40R payments- Towns can use designated payments received from the state for the approval of 40R Smart Growth Districts in the community.
- Sale of tax title property – Municipalities can designate that the proceeds from the sale of tax title properties be placed in the trust fund.
- Special zoning incentive provisions – A number of communities have special provisions in their zoning bylaws that allow for a bonus in development in exchange for contributions to the trust fund. Examples include allowing an in-fill housing unit on an undersized lot; allowing for more than one house per lot; allowing for accessory units; or other similar provisions all in exchange for contributions to the trust fund.
- Cell tower payments – Communities have designated that some of the lease payments for cell towers on town property be designated for the trust fund.

- Resale of affordable units as market rate units –If an affordable unit is unable to be sold at the affordable rate, then the difference in proceeds between the affordable and market price is designated for the trust fund.
- Lottery/resale administration – The trust can act as a lottery/resale agent for affordable units and create revenue from developers willing to pay for this service.
- Private fund raising – Private fund raising campaigns have been proposed in some communities.

There are undoubtedly other potential sources of revenue. If Reading decides that one course of action is to adopt a plan of action that increases the resources of its Trust, it should identify those potential revenue sources most likely to be viable in the town.

Trust Activities

Trusts are used for a wide variety of activities related to the preservation and/ creation of affordable housing and affordable housing opportunities. Examples of these activities include:

- Purchase of land
- Acquisition of town or other publicly owned land
- Acquisition of land through tax title actions
- Purchase of existing dwelling units to restrict for affordable housing use
- Purchase affordable housing restrictions on private housing units, including new developments
- Provide first time home buyer down payment/closing cost assistance (loans and/or grants) for low and moderate income individuals
- Provide financial assistance to low and moderate income renters (loans/grants for 1st/last month's rent and security deposit)
- Provide financing assistance to housing developers to write down the cost of some units or to provide additional affordable units.
- Provide rehab grants/loans to homeowners or property owners with a requirement that an affordable housing restriction be placed on the unit
- Provide foreclosure prevention assistance through short term loans
- Advocate for affordable housing actions, based on town's Master Plan or Housing Production Plan
- Administer affordable housing lotteries and affordable housing unit agreements for housing developers
- Fund a local share for a regional housing services staff person who would carry out a number of affordable housing activities (Note: Reading currently has a grant to study the creation of a regional housing coordinator with a number of surrounding communities.)

APPENDIX A

Massachusetts General Law Chapter 44 Section 55C

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town

may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:—

(1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B;

(2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;

(3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

(4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;

(5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;

(6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

(7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property,

either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) to extend the time for payment of any obligation to the trust.

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.

APPENDIX B

Town of Sudbury Housing Trust

THIS DECLARATION OF TRUST is executed as of the fifteenth (15th) day of February, 2007 by Lawrence W. O'Brien, member of the Board of Selectmen; Michael C. Fee, Chairman of the Planning Board; Amy Lepak, Chairman, Community Housing Committee; and Christopher Morely and Tara L. N. Reed, Co- Chairmen of the Community Preservation Committee, hereinafter called the Temporary Trustees, who shall serve in such capacity pursuant to the provisions of M.G.L. Chapter 44, s 55C until the permanent Trustees are appointed pursuant to Article IV hereunder.

WHEREAS, The Town Meeting of Sudbury has authorized the establishment of a Housing Trust pursuant to the provisions of M.G.L. Chapter 44, s 55C; and

WHEREAS, An Interim Trust was established on October 17, 2006 to provide an interim mechanism for collecting funds and paying for expenses in accordance with the purpose and intent of the enabling legislation pending the adoption of final Trust documents; and

WHEREAS, It is the intention of the Trustees, to establish a comprehensive trust in accordance with the provisions of M.G.L. Chapter 44, s 55C authorizing the establishment of thereof; and

WHEREAS, All monies received by the Interim Trust shall be transferred to this final Trust for all purposes relevant to the Trust and the entire Housing Trust Fund (the Fund) shall be considered available for the purposes of accomplishing the mission of providing for the preservation and creation of affordable housing in the Town of Sudbury for the benefit of low and moderate income households.

THEREFORE, in consideration of the agreements contained in this Trust, and the requirements of M.G.L. Chapter 44, s 55C, the Trustees hereby acknowledge and agree for themselves and their successors in trust to hold the same, together with such other property and funds as may be added thereto, for the purposes hereof in trust for the benefit of all of the Inhabitants of the Town of Sudbury, in the manner and under the terms and conditions set forth herein.

ARTICLE I TRUSTEES

The Trustees shall be appointed in accordance with Article IV hereof to replace the Temporary Trustees established and appointed in the first paragraph of this document.

ARTICLE II PURPOSE OF TRUST

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Sudbury for the benefit of low and moderate income households.

ARTICLE III POWERS OF TRUSTEES

The Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of M.G.L. Chapter 44, s 55C (Municipal Affordable Housing Trust Fund) as outlined below except that it shall have no ability to borrow money, or mortgage or pledge Trust assets, purchase, sell, lease, exchange, transfer or convey any interest in real property without prior approval of the Sudbury Board of Selectmen:

- 1) to accept and receive real property, personal property or money, by gift, grant, contributions, devise, or transfer from any person, firm, corporation or other public

entity or organization or tendered to the Trust in connection with provisions of any ordinance or by-law or any General Law or Special Act of the Commonwealth or any other source including money from M.G.L Chapter 44B (Community Preservation);

- 2) with Board of Selectmen approval from Trustee recommendation, to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
- 3) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;
- 4) with Board of Selectmen approval from Trustee recommendation, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral; to the extent of the Trust's assets, and subject to 2/3 vote at any Annual or Special Town Meeting for greater than the extent of the Trust's assets.
- 5) to construct, manage or improve real property; and to abandon any property which the Trustees determine not to be worth retaining;
- 6) with Board of Selectmen approval from Trustee recommendation, to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- 7) to hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate; and
- 8) to become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Fund,
- 9) to monitor the expiring use of any affordable housing in Sudbury;
- 10) to compensate Town employees for services provided as authorized by the Town Manager, including but not limited to dedicated staff to Trustees, engineering support for project specific activities, and other Town services, as requested by the Trustees to the Town Manager;
- 11) to employ advisors and agents, including but not limited to accountants, appraisers and lawyers as the Trustees deem necessary;
- 12) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
- 13) to participate or join or form a partnership, corporation or any other legally organized entity to accomplish the purposes of this Trust and to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation, and any other corporation, person or entity,

- 14) to apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- 15) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;
- 16) to carry property for accounting purposes other than acquisition date values;
- 17) to make distributions or divisions of principal in kind;
- 18) to extend the time for payment of any obligation to the Trust,
- 19) to establish criteria and/or qualifications for recipients and expenditures in accordance with Trust's stated purposes;
- 20) to compromise, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Trustees may deem appropriate;

Notwithstanding anything to the contrary herein, Board of Selectmen approval shall be required for any of the following actions:

- a) to purchase real or personal property;
- a) to sell, lease, exchange, transfer or convey any personal, mixed, or real property;
and
- b) to borrow money, or to mortgage or pledge Trust assets as collateral to the extent of the Trust's assets.

Notwithstanding anything to the contrary herein, the Trustees may not borrow, mortgage or pledge greater than the current Trust assets unless approved by the Board of Selectmen and by a 2/3 vote at any Annual or Special Town Meeting.

The Trustees shall have full power and authority, at any time and from time to time and without the necessity of applying to any court for leave to do so, to expend the 100% of the Trust funds, both principal and interest, to the extent that all funds hereunder may be expended if the Trustees deem such expenditure appropriate. All expenditures shall be made in conformance with the terms of this Trust and M.G.L. Chapter 44, s 55C.

ARTICLE IV APPOINTMENT AND TENURE OF TRUSTEES

There shall be a Board of Trustees consisting of not less than five and not more than nine Trustees appointed by the Board of Selectmen. At least one of the Trustees shall be a member of the Board of Selectmen, who shall serve as the representative of the Board of Selectmen.

The Trustees shall be appointed for a two (2) year term, such term to end on April 30 of the expiration year or until such time as a successor is appointed, should said appointment be delayed. Two of the initial Trustee appointments shall be for a term of one (1) year, and may be re-appointed at the discretion of the Board of Selectmen. Trustees may be appointed for no more than five (5) consecutive terms.

In the event of a vacancy in the position of Trustee, the appointment shall be made in the same manner as the original appointment.

All Trustees must be current residents of Sudbury upon initial appointment. Any Trustee who ceases to be a resident of the Town of Sudbury shall promptly provide a written notification of the change in residence to the Trust and to the Town Clerk. Said Trustee may continue to serve with the approval of the remaining Trustees, and may be reappointed by the Board of Selectmen.

Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are five (5) Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees.

ARTICLE V MEETINGS OF THE TRUSTEES

The Trust shall meet at least quarterly at such time and such place as the Trustees shall determine. Special meetings may be called by the Chairperson or by any two (2) Trustees. Notice of any meeting of the Trust shall be filed with the Town Clerk and posted in accordance with the Open Meeting Law, M.G.L. Chapter 39, s 23A, 23B and 23C.

A quorum of the Board of Trustees shall be the majority of the number of authorized Trustees.

The Trustees shall annually elect one (1) Trustee who shall not be a member of the Board of Selectmen to serve as Chairperson. The Chairperson may establish sub-committees and/or ad hoc task related committees to carry out the purposes of the Trust. Chairpersons of the sub-committees may be selected by the members of the sub-committees.

If any Trustee is absent from five (5) consecutive regularly scheduled meetings of the Trust, except in the case of illness, his position shall be deemed vacant and shall be filled with a new appointment as set forth above.

ARTICLE VI ACTS OF TRUSTEES

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.

ARTICLE VII TREASURER/COLLECTOR AS CUSTODIAN

The Town of Sudbury Treasurer/Collector shall be the custodian of the Trust's funds and shall maintain separate accounts and records for said funds.

He or she shall invest the funds in the manner authorized by M.G.L Chapter 44, s 55 (Public Funds on Deposit; Limitations; Investments,) s 55A, (Liability of Depositor for Losses Due to Bankruptcy), s 55B (Investment of Public Funds).

Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust.

Expenditures by the Trust shall be processed through the warrant but shall be controlled by the provisions of M.G.L. Chapter 44, s.55C. The yearly approved budget, and any approved budget revisions will be recorded by the Town Treasurer/Collector.

As custodian, the Treasurer/Collector shall issue checks as directed by the Trustees.

In accordance with M.G.L. Chapter 44, s.55C (Municipal Affordable Housing Trust Fund), the books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices. The Trust shall be audited as part of the Town audit.

ARTICLE VIII DURATION OF THE TRUST

This Trust shall continue so long as authorized under the Laws of the Commonwealth of Massachusetts. Notwithstanding the foregoing, The trust may be terminated by a majority vote of the Town Meeting in accordance with M.G.L. Chapter 4, s 4B, provided that an instrument of termination together with a certified copy of the Town Meeting vote are duly recorded with the Middlesex South District Registry of Deeds and the Land Court. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE IX CONSTRUCTION OF TERMS

In the construction hereof, whether or not so expressed, words used in the singular or in the plural respectively include both the plural and singular, words denoting males include females and words denoting persons include individuals, firms, associations, companies, trusts and corporations unless a contrary intention is to be inferred from or required by the subject matter or context. All the powers and provisions of the Trust herein contained shall take effect and be construed according to the laws of the Commonwealth of Massachusetts.

Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

ARTICLE X RECORDING

This Declaration of Trust shall be recorded with the Middlesex South District Registry of Deeds and the Land Court.

ARTICLE XI AMENDMENTS

The Declaration of Trust may be amended from time to time except as to those provisions specifically required under M.G.L. Chapter 44, s 5C, by an instrument in writing signed by all of the Trustees and approved at a meeting called for that purpose, and approved by the Board of Selectmen provided that in each case, a certificate of amendment has been recorded with the Middlesex South District Registry of Deeds and the Land Court.

ARTICLE XII RECORD TO BE CONCLUSIVE, CERTIFICATE AS TO FACTS

Every contract, deed, mortgage, lease and other instrument executed by a majority of the Trustees as appears from instruments or certificates recorded with the Registry of Deeds and Land Registration Office to be Trustees hereunder shall be conclusive evidence in favor of any person relying thereon or claiming thereunder, that at the time of the delivery thereof this Trust

was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees except that instruments of amendment pursuant to Article XI and an instrument of termination pursuant to Article VIII hereof shall be conclusive only if it appears that the delegations, amendments or termination have been executed by all of the Trustees. Any person dealing with the Trust property or the Trustees may always rely on a certificate signed by any person appearing from instruments or certificates so recorded to be Trustee hereunder as to the identity of the then current Trustees or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or in any other manner germane to the affairs of the Trust.

ARTICLE XIII TERMINATION OF INTERIM TRUST

The Interim Trust is hereby terminated and all assets and liabilities shall be transferred to the Trustees hereunder pursuant to the vote of the April 2006 vote of the Sudbury Annual Town Meeting and M.G.L. Chapter 44, s 55C.

ARTICLE XIV TITLES

The titles to the various Articles herein are for convenience only and are not to be considered part of said Articles nor shall they affect the meaning or the language of any such article.

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APPENDIX C

Town of Marblehead Town Meeting Warrant
To adopt an Affordable Housing Trust Fund

Article IX. MARBLEHEAD AFFORDABLE HOUSING TRUST FUND

ARTICLE IX. Marblehead Affordable Housing Trust Fund

§ 24-23. Purpose; membership; appointment.

§ 24-24. Powers.

[Adopted 5-4-2008 ATM by Art. 34]

§ 24-23. Purpose; membership; appointment.

There shall be a board of trustees of the Marblehead Affordable Housing Trust Fund established by the vote under Article 34 of the Warrant for the 2008 Annual Town Meeting, in this section called the board, which shall include nine trustees, including all of the members of the Board of Selectmen, with the remaining members to be appointed by the Board of Selectmen. Trustees shall serve for a term not to exceed two years. A quorum of the board of trustees shall be five members.

§ 24-24. Powers.

The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in General Laws Chapter 44, Section 55C, shall include the following:

- A. Subject to Town Meeting approval, to accept and receive real property, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity;
- B. To accept and receive tangible property or financial gifts, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation grants of funds or other property, not real property, tendered to the trust in connection with provisions of the Town of Marblehead Zoning Bylaw or any other Town by-law;
- C. Subject to Town Meeting approval, to purchase and retain real property;
- D. To purchase and retain personal property, including without restriction investments that yield a high rate of income or no income;
- E. Subject to Town Meeting approval, to sell, lease, exchange, transfer or convey any real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- F. To sell, lease, exchange, transfer or convey any personal, property at public auction or by private contract for such consideration and on such terms as to credit or otherwise,

and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;

- G. To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust and if given proper authority as noted above;
- H. To employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- I. To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;
- J. To apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- K. To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- L. To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;
- M. To carry property for accounting purposes other than acquisition date values;
- N. To borrow money on such terms and conditions and from such sources as the board deems advisable and to mortgage and pledge trust assets as collateral;
- O. To make distributions or divisions of principal in kind;
- P. To compromise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of Massachusetts General Laws, Chapter 44, Section 55C, to continue to hold the same for such period of time as the board may deem appropriate;
- Q. To manage or improve real property;
- R. Subject to approval of Town Meeting, to abandon any property which the board determined not to be worth retaining;
- S. To hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate;
- T. To extend the time for payment of any obligation to the trust.
- U. To adopt rules and regulations for the purpose of carrying out its responsibilities and powers and in furtherance of the provisions hereof.

And to do all of the foregoing without funding from the Town of Marblehead but by receipts generated and/or earned, received, bequeathed, gifted or devised in accordance herewith.

North of Boston Regional Shared Housing Services Project

Funding provided by the
District Local Technical Assistance program,
Commonwealth of Massachusetts

Prepared for the

Town and Cities of Danvers, North Reading,
Peabody, Reading, Saugus and Wilmington

Prepared by

Metropolitan Area
Planning Council
60 Temple Place, 6th Floor
Boston, Massachusetts 02111
Tel (617) 451-2770
www.mapc.org

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This report was produced by the Metropolitan Area Planning Council, professional technical assistance was provided by Matthew Smith, Senior Regional Planner; Steven Winter, Economic Development Manager; and Jennifer Raitt, Chief Housing Planner.

Metropolitan Area Planning Council

Officers

President Michelle Ciccolo, Town of Hudson

Vice President Lynn Duncan, City of Salem

Secretary Marilyn Contreas, Department of Housing and Community Development

Treasurer Taber Keally, Town of Milton

Thank you for the assistance and leadership of the following individuals:

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Appendix

Survey Instrument

Sample IMA

I. EXECUTIVE SUMMARY

For this 2012 District Local Technical Assistance (DLTA) project to assess the feasibility of a Shared Regional Housing Office, MAPC performed a Housing Services Assessment of municipal time and funding expended on affordable housing efforts in the communities of Danvers, North Reading, Peabody, Reading, Saugus and Wilmington. MAPC worked with Town Managers, housing and planning staff, and volunteers from these municipalities to gather housing data, analyze results, identify overlapping services/issues/concerns, and to develop a list of proposed services that could be handled by a shared housing office or service provider.

The results of this detailed assessment found that the six communities would benefit from a shared relationship in the following housing services areas:

- Monitoring;
-
- Regional and Community Linkages
- Local Support (Affordable Housing Planning and Advocacy)

MAPC identified various models for the communities to consider for the shared housing services. The four potential models include:

- Consultant through Collaborative or Individual RFP
- Creation of an Inter-municipal Agreement (IMA)
- MAPC to provide services
- Public/Private Partnership through 501 (c)(3)

A financial model was developed from the information provided in the Assessment for Town Managers, Mayors and/or their representatives to review.

II. INTRODUCTION

The key objective of this study was to investigate and identify a mechanism for the communities of Danvers, North Reading, Peabody, Reading, Saugus and Wilmington to work together collaboratively to better achieve and maintain progress toward their affordable housing goals by jointly procuring housing assistance.

In many municipalities throughout the Commonwealth, a Planning or Community Development Office is responsible for the oversight and management of municipal housing activities, however, the role of promoting affordable housing, and/or managing the affordable housing inventory, is often adjunct to the primary job responsibilities and often not description component of municipal housing work. Additionally, due to the infrequency of some tasks, the complexity of regulatory requirements, and the many options available for advancing local initiatives, maintaining the required technical skills in-house is difficult, and communities often turn to external housing consultants on an as-needed fee-for-service basis to assist with specific projects or provide general support. This can be costly on a per project basis and does not typically provide the community with a complete or consistent understanding of their affordable housing needs over time or how best to address them.

The six municipalities in this study joined together because they are interested and motivated to create more affordable housing opportunities within their communities and to maintain and preserve their existing affordable housing stock in a cost effective manner. This is important to communities for several reasons, including:

- 1) to expand the housing options for low and moderate income residents within their communities;
- 2) to achieve the state 10% mandate for affordable housing. (The Department of Housing and Community Development (DHCD) maintains a Subsidized Housing Inventory (SHI) of qualifying affordable units to track each community's inventory of affordable housing. Communities that have 10% of their year-round housing stock designated as affordable housing have the option to deny comprehensive permit applications, 40B.)
- 3) to maximize investments (both financial and staff time) because affordable housing units take many years to create; and
- 4) to preserve public subsidies since all units of affordable housing are created with public subsidies (such as funds, zoning bonuses or public resources)

A successful example of this type of collaboration is the *Regional Housing Services Office* supporting the housing needs for the towns of Acton, Bedford, Concord, Lexington, Sudbury and Weston. About two years ago, these communities joined together through an Inter-Municipal Agreement, with the Town of Sudbury hosting the office and providing the services to the other Towns. The member towns pay a membership fee annually for a contracted level of service, which provides a staff augmentation approach to delivery. Sudbury then provides the physical space and infrastructure, manages the services contracting, hires needed staff, and provides general management oversight.

(Please note that an IMA is not the only option for procurement. Several other options that may be equally suited for this grouping of communities were identified as part of this study, and will also be discussed later in this document.)

The following pages detail the approach taken to better understand current municipal affordable housing capacity, identify a list of core and optional services, provide a draft financial model, and a menu of procurement options available should the six participating municipalities (or subset of the group) move forward.

III: COMMUNITY OUTREACH, DATA COLLECTION & ANALYSIS

The first task of this project was the Regional Housing Services Needs Assessment, which required MAPC to compile survey data, interview representatives from each municipality, analyze results, and identify overlapping services and issues.

To begin the process, MAPC reached out to and met with representatives from several municipalities at a kickoff meeting to gauge interest in project participation, and to answer questions. After this meeting, six communities committed to participate in the process - Danvers, North Reading, Peabody, Reading, Saugus and Wilmington.

MAPC distributed a Housing Services Needs Assessment survey instrument to each community to complete. This provided MAPC with an overview of municipal time, expenditures, and revenues associated with affordable housing in each municipality. MAPC staff then held a meeting with each community to provide assistance, review the completed survey and identify additional needs.

A summary table of a 12-page detailed municipal time and expenditures housing analysis is provided on page 10. The analysis provides a summary of the total hours, revenue, and costs expended on municipal housing activities in four core areas: planning, programs, services, and general administration by the six municipalities based on data collected with communities in December, 2012. (See Appendix for more information.)).

Next, MAPC analyzed the combined data to find commonalities between the municipalities that would later be used to identify a group of core services that could be appropriately administered through a shared regional housing office. Individual needs were also identified that could potentially be administered by a shared office or other entity on an as-needed basis.

Key Findings:

A list of key findings for all municipalities combined can be seen below, followed by a summary table for the individual communities.

Key Findings: All Communities

1. All of the municipalities in this study are currently below the 10% SHI mandate for affordable housing.
2. Staff capacity to manage housing services varies widely from municipality to municipality.
3. Monitoring affordable housing stock is time consuming and communities would benefit from additional capacity to proactively do so.
4. Municipal staff would benefit from additional resources to effectively identify ready-renters and buyers, and maintain up-to-date lists.
5. Assistance to ensure Local Preference a priority is desired.

6. Technical assistance would help municipalities to better understand and utilize existing and new housing programs to maximum public benefit.
7. Several municipalities that do not have a DHCD approved housing production plan would benefit from one, and/or could use assistance developing one. Others are in final approval stages, or about to begin a plan process with a consultant.
8. Several municipalities would like grant writing assistance to obtain additional funds for housing-related services or development projects.
9. Many of the municipalities lack specific dedicated revenue streams for housing services, especially relative to administration and overhead funds..

Table 1: Key Findings by Community

	SHI %	SHI Units			Housing Staff, Boards and Committees	Dedicated Revenues for Housing Services	Development Pipeline	Service Needs Identified by the Communities
		TOTAL	Owner	Renter				
Danvers	9.2	1013	0	1013	Assistant Director of Planning and Human Services, Planner, Housing Trust, Housing Authority	Affordable Housing Trust, HOME, Housing Assistance Trust, General Fund (Staff Time)	Connifer Commons - 90 units all affordable. Tax credit, not 40B 40B near Middleton Line - ownership 18 affordable units (71 total)	Housing Production Plan, SHI Monitoring, Ready Renter/Buyer, Education/Tech Assistance
North Reading	9.5	533	43	490	Town Planner, Housing Authority	None specific to housing. General Fund (Staff Time)	No major projects pending.	Housing Production Plan, SHI Monitoring, Ready Renter/Buyer, Senior Housing
Peabody	9.1	2018	232	1786	Community Development Director, Asst. Community Development Director, Housing Authority	CPA, HOME, Inclusionary Funds, CDBG, Revolving Loan Fund, General Fund (Staff Time)	No major projects pending.	SHI Inventory Monitoring, First-Time Homebuyer Program, Rehab, Client Intake/Eligibility, General Admin
Reading	7.1	684	26	658	Community Services Director and Town Planner, Planner, Housing Authority	Affordable Housing Trust Fund, General Fund (Staff Time)	7 projects either recently completed or in pipeline. Haven Street-Oaktree, Reading Woods, Johnson Woods, Johnson Woods Phase II, MF Charles, 45 Beacon Street, Peter Sanborn Place (132 new SHI units will be added.)	SHI Monitoring, Ready-Renter/Buyer, Local Preference, group home confirmation, Education/Best Practices, First-Time Homebuyer Program
Saugus	7.1	759	60	699	Housing Trust (Volunteer)	None specific to housing. Housing Trust volunteer time.	No major projects pending.	Housing Production Plan: SHI Monitoring, Ready Renter/Buyer, Development Project Assistance, Maintenance Program, Monitoring of accessory units
Wilmington	9.1	710	158	552	Director Planning & Conservation, Assistant Planner, Housing Authority	None specific to housing. General Fund (Staff Time)	Metro at Wilmington (108 rental units, 24 affordable) opens June 2013	SHI Monitoring, Ready-Renter/Buyer

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IV. SCOPE OF SHARED SERVICES

Based on review of the municipally provided information data other available information, and interviews with community representatives, three categories of services were identified that could be supported by a Shared Regional Housing Office for these six communities. Two categories, Monitoring and Regional Activities, make up the Core Services of the office, or those primary services provided to each of the communities. The third category, Local Services, is services provided for an additional fee, depending on the needs of the individual municipalities. All services are listed below, followed by a more detailed explanation of each.

Core Services

A. Monitoring Services

- Create a central repository of affordable housing developments and a listing of housing occupants (owners)
 - Reconcile municipal records with the Subsidized Housing Inventory maintained by the Department of Housing and Community Development
 - Add new units to the inventory as required and amend inventory as needed.
- Develop and execute a monitoring plan and execute it
 - Annually monitor ownership units
 - Annually monitor rental developments
- Value ownership units for assessment purposes
- Approve owner refinancing requests and related inquiries

B. Regional Services

- Create Ready-Buyer/Renter lists
- Develop a Regional First-Time Buyer Program. Investigate current FTHB resources north of Boston, assess need/gaps, then determine/develop appropriate program.

Additional Services

C. Local Support

- Meet with staff and housing entities in each municipality
- Provide Technical Assistance on housing development projects and review local project documents
- Prepare proposals for supplemental services as needed, including grant writing assistance.

Monitoring Services

The core of the Program offerings is the delivery of Monitoring Services. Monitoring Services ensure and enforce compliance of existing affordable housing restrictions with the goal of preserving the affordability of existing deed-restricted units within each of the municipalities. Tasks and activities under the Monitoring Services are described below.

A. Create a central digital repository

The first and primary task is to create a centralized repository of all available legal documents for all projects. This includes project zoning decisions (Special Permit, Comprehensive Permit, other), regulatory agreements (both homeownership and rental), deeds for ownership units, and other specific project information (e.g. mortgages or liens, land disposition agreements, 40B Cost Certification Reports). The result is a consolidated inventory of each development/project complete with the above legal documents, as well as the project address/contact information, unit size mix, affordability levels, and DHCD Subsidized Housing Inventory (SHI) identifications.

SHI Administration

In order to develop the repository, each project in each community is reconciled to the DHCD SHI listing, and required updates are made to DHCD to ensure that municipalities benefit from all eligible units being 'counted' on their SHI. This inventory is updated throughout the term of service as new projects are completed and units occupied, units are bought or sold, and refinancing transactions occur. The final outcome is a central repository and an accurate listing on DHCD's SHI.

The SHI snapshot as of November 2012 of these seven communities is shown below, with proposed or under development projects below.

Table 3: Detailed Subsidized Housing Inventory for Participating Communities

	DANVERS	NORTH READING	PEABODY	READING	SAUGUS	WILMINGTON
Public Housing Units	259	44	505	90	313	82
DDS Units	95	32	138	42	86	19
Other Rental	659	414	1143	526	300	451
Ownership	0	43	232	26	60	158
Total SHI Units	1013	533	2018	684	759	710
Total Current SHI	9.2%	9.5%	9.1%	7.1%	7.1%	9.1%
Pending Units	108	0	0	132	0	108
Total Pending SHI Units	1121	533	2018	816	759	818
Pending %SHI	10.1%	9.5%	9.1%	8.5%	7.1%	10.5%

B. Develop a Monitoring Plan

For this task, the legal framework of each project, generally found in the Regulatory Agreement and Owner Deed, is reviewed and detailed conditions are analyzed. The role and responsibility of the municipality for monitoring the housing unit(s) is then identified, as are the specific requirements for local programs and restrictions. This effort results in the development of the Annual Monitoring Plan.

As background, different affordable housing programs generally require program specific monitoring responsibilities for municipalities. For example, the DHCD LIP Program, used for both ownership and rental in 40B and Local Action Unit (LAU) developments, generally requires annual certification by the Municipality to DHCD to ensure units comply with deed and regulatory requirements. On the other hand, the MassHousing NEF (New England Fund) Housing Starts Program requires a third-party Monitoring Agent to perform the required annual certifications, and currently only for rental units. Rental units, in all programs, require annual tenant recertification using updated primary source documents. Tenants must remain income-eligible to continue occupying an affordable unit. It is useful to know that DHCD's monitoring expectations may change, placing a greater emphasis on compliance certification by the responsible parties. This may result in additional efforts by the municipalities that are not currently required.

Execute Annual Monitoring Plan

The Annual Monitoring Plan is developed based on the projects and units regulated in the municipality with activities specific to ownership units and rental units, with the objective to confirm that the development and/or owner is compliant with the affordable housing restrictions.

For ownership units, the annual monitoring task is to confirm that the owner of record is compliant. It is important to note that the form of affordable housing restriction can vary greatly depending on when the deed is recorded and the regulatory program requirements. Generally though, the restriction requires that the owner live in the unit as their primary residence and that they obtain approval for refinancing or transfer. This effort starts with the research at the appropriate Registry of Deeds to review any new information for the unit – such as refinancing (more common) or transfers (less common). Self-certification letters are sent to each owner requiring return confirmation of the restrictions. This annual correspondence with the owners is a useful opportunity for the municipality to reiterate the deed restriction requirements and to direct owners to resources that can assist them to continue to maintain their property – both physically and financially as needed.

For rental units, the annual monitoring task is to confirm that the project is in compliance with the rental regulatory agreement. The monitoring effort for rental projects is mostly for LIP projects. For these developments, the municipality is required to review the rents charged, review the certification of the tenants, review that the units are maintained, to ensure that tenant selection practices comply with Fair Housing laws, and to certify all the above to DHCD. For non-LIP projects, the level of this effort is more

discretionary as the municipality generally has no identified responsibility. However, the municipality may wish to obtain a general certification from the project sponsor that they are in compliance with deed restriction requirements.

It is expected through this extensive review that compliance violations will be identified and rectified. Violations may be the result of misunderstood program guidelines, Fair Housing violations, general neglect or lack of oversight. This effort results in the development of a list of compliance violations, with a proposed course of action, as well as certifications of compliance.

C. Value ownership units for assessment purposes

This effort provides the Assessor's Office with annual valuations for the affordable units. As required by the Department of Revenue, property assessments must take into account deed restrictions in their valuation. This value-added service is facilitated greatly by the complete inventory and analysis of each deed restriction and its method of resale calculation for ownership units. This effort results in the delivery of a list to the Assessor's Office of the proposed valuation of each affordable unit for tax assessment purposes.

D. Approve owner refinancing and related inquiries

Many owners wish to refinance or investigate selling their unit. This requires first an initial valuation as well as helping them with required processes. The initial inquiries may lead to refinancing approvals required by the municipality, or triggering resale provisions. This effort results in the drafting of the refinancing approval for the municipality and potentially a Subordination Agreement..

Regional Services

The second grouping of core services relate to regional services and regional linkages among the participating municipalities. There are many tasks and activities under the Monitoring Services umbrella.

I. Locating eligible buyers and renters

This service provides the municipalities and their properties access to ready renter and ready buyer lists for unit leasing and resale. Gathering this information regionally would benefit each of the communities. Activities include:

- developing marketing plans per regulation and guidelines
- performing outreach and affirmative/fair marketing units
- qualifying applicants and certifying eligibility
- administering and documenting lotteries
- assisting applicants through occupancy

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J. Resident training/services

This service provides training and services to existing home owners by connecting them to regional programs and services. The collaborative communities may opt to offer post-purchase training modules or provide linkages to foreclosure resources. This service offering is greatly leveraged across multiple communities.

Supplementary Support Services

The third subset of proposed housing services, Local Support, would be provided on additional fee-for-service as part of the contract. The local support options would allow each participating municipality to select from a menu of value-added services to focus on specific projects and locally sponsored unit creation development and administration. Should some municipalities require additional assistance beyond the hours allotted in the base contract, supplemental services could be separately arranged through the office or identified service provider.

E. On-site support for staff, boards and committees

The housing service entity could provide on-site support to local staff, Boards and Committees, including attendance at meetings with presentation materials. The level of support will vary by municipality as will the number of meetings.

F. Assist with specific development projects and unit creation

This service offering provides assistance for specific projects, including locally sponsored and/or private development projects. Activities could include:

- assisting municipal boards and developers with evaluating parcels or municipally-owned property;
- facilitating site and conceptual plan review, project concepts and designs;
- preparing or reviewing project proforma budgets;
- analyzing projects using locally-adopted rules, State guidelines/regulations, best practices;
- reviewing finalized plans with regard to the affordable component, including unit mix, disbursement, cost, governance, schedule, marketing;
- interacting with DHCD and Subsidizing Agency; and
- providing comments on the Regulatory Agreement, and other local agreements as appropriate.

G. Develop resident assistance programs

This service provides support in creating resident assistance programs such as down payment assistance, small grants or capital improvement programs, rental assistance

programs, buydown programs or any other locally defined initiatives to assist new or existing residents.

Activities include developing the program including eligibility requirements, funding determination, development of application materials, and implementation assistance.

Administration of the resulting program is assumed to rest with the municipality, though could also be included in the contracted services if desired.

V. FINANCIAL MODELING

Using a model created for the original 6-town Regional Shared Housing Office study (Sudbury project), MAPC used the survey information gathered from the 6 towns to create a financial model and cost estimate for combined services.

The Model

Three key pieces are needed to estimate the costs for the shared housing services. They are:

- 1) the number of communities participating;
- 2) the level of service for each, and
- 3) the fixed costs

Because many of the tasks to be provided are time intensive, most of the costs associated with the shared services office are labor costs. Labor costs are estimated to run between \$60-\$90 per hour, and will vary depending on the procurement option decided upon and the capacity of the selected service provider and type.

The service level table on the following page shows a rough estimate of hours for each community by the monitoring services and supplemental local support that may be requested. The fixed costs are the facilities and infrastructure. From a facilities perspective, a central office is desired but not mandatory, however a central phone number needs to be provided for residents to call. One can assume that all meetings are at the individual municipality site, and that independent work can take place in a home office. Other fixed costs include paper, postage, accounting, insurance, computers, office equipment, legal as well as other items.

Fee Structure

The participating municipalities will proportionally share the total cost of operating the Regional Housing Services Office. The proportional share is determined based on the percentage of hours planned to support each municipality for core service as derived from the DRAFT service level table and then represented in the DRAFT fee schedule (See pages 18 and 19.)

This DRAFT fee structure is an estimate and includes payment for all core services, along with potential supplemental services which will be proposed and invoiced outside of this agreement or payment for additional hours in excess of the allotted hours.

Please note that costs will vary to some extent on a year to year basis, depending on the supplemental Local Support needed. Additionally, first year costs are likely to be higher due to the time allotted for the research and collection of documents and other information to be included in the central repository. Further, if a municipality already has existing, up-to-date files for individual properties and projects, less time will be required and costs will be lower.

Table 4: EXTIMATED** Individual Community Service Levels: First Year

	Methodology	Hours		Danvers		N. Reading		Peabody		Reading		Saugus		Wilmington	
		Per unit	Hours	#/yr	Hours /year	#/yr	Hours /year	#/yr	Hours /year	#/yr	Hours /year	#/yr	Hours /year	#/yr	Hours /year
CORE SERVICES															
Monitoring															
*Ownership Units: Annual Monitoring	One per ownership unit	1		0	0	43	43	232	232	26	26	60	60	158	158
*Rental Units: Compliance report	One per Comp Permit project from Mon. Agent	2		4	8	1	2	5	10	4	8	2	4	3	6
Assessor Valuation	One per ownership unit	1		0	0	43	43	232	232	26	26	60	60	158	158
Resolve SHI discrepancies (1% of SHI units)	One for each discrepancy	4		10	40	5	20	20	80	7	28	8	32	7	28
Regional Activities	All Participate Equally														
Locate buyers/renters	Ready buyer/renter list	50		1	50	1	50	1	50	1	50	1	50	1	50
Administration	Status, Billing	1		12	12	12	12	12	12	12	12	12	12	12	12
Resident Support	Community linkages	3		1	3	1	3	1	3	1	3	1	3	1	3
SUBTOTAL – CORE SERVICES					113		173		619		153		221		415
SUPPLEMENTAL SERVICES															
Local Support															
On Site Meeting	Per Meeting: Staff, Housing entities	3		12	36	12	36	12	36	12	36	12	36	12	36
Program Development	Develop Program materials and implement	20		1	20	1	20	2	40	1	20	1	20	1	20
Program Administration	Administer applicants for approval	2		0	0	0	0	0	0	0	0	0	0	0	0
Project Consultation	Per project	20		1	20	0	0	2	40	1	20	1	20	0	0
Prepare Updated HPP	Per DHCD requirements	250		0	0	0	0	0	0	0	0	0	0	0	0
SUBTOTAL: SUPPLEMENTAL SVC					76		56		116		76		76		56
TOTAL	Hours per year	=			189		229		735		229		297		471
	Hours per week	41.3			3.6		4.4		14.1		4.4		5.7		9.1
	Percent of Total				8.8%		10.7%		34.2%		10.7%		13.8%		21.9%

*Ownership and Rental Units monitoring in year one includes creating monitoring database. Additional hours for database development may be required to complete this task.

**All Core Services hours are estimated based on SHI inventory. Hours for supplemental services were filled in for budget demonstration purposes.

Table 5: DRAFT Membership Fee Schedule: ESTIMATES

A. Core Services Only (ESTIMATE)

Town	Hours	% of hrs	Pro rata \$
			(\$60 per hour)
Danvers	113	6.7%	\$6,780
North Reading	173	10.2%	\$10,380
Peabody	619	36.5%	\$37,140
Reading	153	9.0%	\$9,180
Saugus	221	13.0%	\$13,260
Wilmington	415	24.5%	\$24,900
TOTAL	1,694	100%	\$101,640

B. Core Services and Supplementary Services (ESTIMATE)

(The below fee schedule represents a potential scenario based on supplementary services selected for each community in the previous spreadsheet. Final hours and costs will be determined based on individual municipality use of supplementary services.)

Town	Hours	% of hrs	Pro rata \$
			(\$60 per hour)
Danvers	189	8.8%	\$11,340
North Reading	229	10.7%	\$13,740
Peabody	735	34.2%	\$44,100
Reading	229	10.7%	\$13,740
Saugus	297	13.8%	\$17,880
Wilmington	471	21.9%	\$28,260
TOTAL	2,150	100%	\$133,300

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VI. ESTABLISHING A REGIONAL HOUSING SERVICES OFFICE

For the final task, MAPC will work with the municipalities to identify the best procurement option to meet the needs of the final grouping of communities.

Options for Procurement

There are a few options for procurement and contracting discussed below. MAPC will assist in further developing these options should the municipalities proceed.

A. Consultant through Collaborative or Individual RFP

This option seeks to contract with a non-profit or private entity for desired services. This entity could be a private consulting firm, a public housing entity, or any other service provider. Municipalities could either contract together as one entity, or independently. Contracting together could potentially provide a more cost effective option and also establish a regional perspective. Contracting individually with the same provider would allow each community to join/terminate independently, and would allow additional communities to join in the future without creating a new group agreement.

B. IMA

The Inter-Municipal Agreement (IMA) option requires each participating municipality to sign on with a lead community that would then be charged with providing the services, staff and office space through RFPs meeting 30B requirements as well as management oversight.

C. MAPC to provide services

(MAPC would not be able to consider this option until Fall 2013 at the earliest, with implementation in late-FY14 or FY15, due to existing project commitments.)

This potential option considers MAPC leading and providing the housing office services through a regional non-profit model. Because MAPC is a public entity, the communities would not need to procure this service through an RFP or Chapter 30B requirements.

D. Public/Private Partnership through 501(c)(3)

This option would involve creating a 501(c)(3) non-profit organization with the municipalities on the Board and the service providers as staff. This is a more formal and permanent arrangement and takes significantly more initial effort to implement. It creates an entity, with tax and governmental requirements. The more permanent aspect to this organization would solidify the service offering for the future, and have more capability as a separate entity.

VII. NEXT STEPS FOR MUNICIPALITIES

The tentative next steps and proposed time line is shown below. A logical starting point would be to start services by the beginning of the fiscal year. That requires that minimally a service provider is identified and selected. Alternatively temporary contractual arrangements may be put into place until the final solution is implemented. Some communities will need to prepare appropriation requests for Town Meeting, and it is difficult to arrange the timing so that the exact cost is known then. An estimated or ballpark number might be needed.

March

- Outreach to local housing stakeholders to discuss model
- Communities to opt in
- Communities to define level of service

April

- Draft RFP/Document
- Town Meetings/Council start for funds appropriation

May

- Issue RFP/Solicit service providers

June

- Negotiate and award contract

July

- Implement